

IFWI

**TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT**

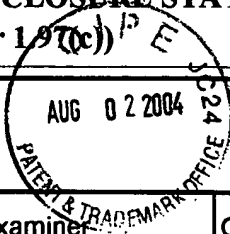
(Under 37 CFR 1.97(b) or 1.97(c))

Docket No.

17052

In Re Application Of: **Werner Scherer, et al.**

AUG 02 2004



Application No.

Filing Date

Examiner

Customer No.

Group Art Unit

Confirmation No.

10/692,899

October 24, 2003

Harvey E. Behrend

23389

3641

8714

Title: **SMOKE SHELL**

Address to:

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**37 CFR 1.97(b)**

1. ☐ The Information Disclosure Statement submitted herewith is being filed within three months of the filing of a national application other than a continued prosecution application under 37 CFR 1.53(d); within three months of the date of entry of the national stage as set forth in 37 CFR 1.491 in an international application; before the mailing of a first Office Action on the merits, or before the mailing of a first Office Action after the filing of a request for continued examination under 37 CFR 1.114.

**37 CFR 1.97(c)**

2. ☒ The Information Disclosure Statement submitted herewith is being filed after the period specified in 37 CFR 1.97(b), provided that the Information Disclosure Statement is filed before the mailing date of a Final Action under 37 CFR 1.113, a Notice of Allowance under 37 CFR 1.311, or an Action that otherwise closes prosecution in the application, and is accompanied by one of:

☐ the statement specified in 37 CFR 1.97(e);

**OR**

☒ the fee set forth in 37 CFR 1.17(p).

**TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT**  
(Under 37 CFR 1.97(b) or 1.97(c))

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10/692,899	October 24, 2003	Harvey E. Behrend	23389	3641	8714

**SMOKE SHELL**

**Payment of Fee**

(Only complete if Applicant elects to pay the fee set forth in 37 CFR 1.17(p))

- ☒ A check in the amount of **\$180.00** is attached.
- ☒ The Director is hereby authorized to charge and credit Deposit Account **19-1013/SSMP** as described below.
- ☐ Charge the amount of
- ☒ Credit any overpayment.
- ☒ Charge any additional fee required.

**Certificate of Transmission by Facsimile\***

I certify that this document and authorization to charge deposit account is being facsimile transmitted to the United States Patent and Trademark Office (Fax. No.

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Signature

Typed or Printed Name of Person Signing Certificate

**This certificate may only be used if paying by deposit account.**

**Certificate of Mailing by First Class Mail**

I certify that this document and fee is being deposited on **July 29, 2004** th the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Signature of Person Mailing Correspondence

Leopold Presser

Typed or Printed Name of Person Mailing Certificate

**Leopold Presser**  
Registration No. 19,827

Correspondence Address  
Customer No. 23389

Dated: **July 29, 2004**

cc: LP:jj



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**Applicants:** Werner Scherer, et al. **Examiner:** Harvey E. Behrend  
**Serial No:** 10/692,899 **Group Art Unit:** 3641  
**Filed:** October 24, 2003 **Docket:** 17052  
**For:** SMOKE SHELL **Dated:** July 29, 2004

**Confirmation No.: 8714**

Commissioner for Patents  
P.O. Box 1450  
Arlington, VA 22313-1450

**INFORMATION DISCLOSURE STATEMENT**

Sir:

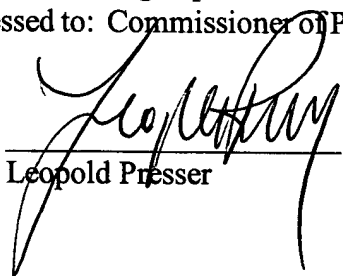
In compliance with the provisions of 37 C.F.R. §1.97, §1.98 and §1.56 requiring the applicants to advise the United States Patent and Trademark Office of any art of which they are cognizant and which may have a bearing on the prosecution of the present application, applicants herewith submit a copy of an Office Action issued by the European Patent Office in the co-pending European patent application on the 8<sup>th</sup> of July 2004.

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**CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents, Alexandria, VA 22313-1450 on July 29, 2004.

Dated: July 29, 2004

  
\_\_\_\_\_  
Leopold Presser

08/03/2004 CNGUYEN 00000056 10692899

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Concerning the foregoing, applicants note the prior art, which was cited in the corresponding European patent application, copies of which are enclosed herewith (with the exception of U.S. patents) and which are also listed on the enclosed Form PTO-1449.

Concerning the foregoing, of particular interest is the disclosure of Prochnow, et al., U.S. Patent No. 4,002,121.

With regard to that particular U.S. Patent to Prochnow, et al., there is disclosed a smoke projectile containing an incendiary composition, wherein the projectile 1 possesses a projectile casing, which is attached to a nose cone, and tail end or a base 3, which is detachably connected with the projectile casing. In the structure of the Prochnow, et al. projectile, the nose cone possesses a time fuse which is operatively connected with an explosive charge 5. A number of containers 10, each having confined therein an incendiary composition 9 are arranged in the projectile casing in contact or border against the tail and or back portion 3 and against a piston-like ejection plate 4.

In contrast with the present invention, there is no disclosure that at the ejection plate 4, in proximity to the explosive charge 5, there is arranged an ignition charge 30. That type of advantageous construction, which is lacking in the Prochnow, et al. patent, is clearly disclosed in the present application and as also set forth in the claims.

Furthermore, pursuant to the present invention as claimed, there is provided a damping device in the form of damping elements 60, which are arranged intermediate adjoining smoke segment layers. This is not disclosed in Prochnow, et al., nor any other prior art.

In accordance with the present invention, the damping elements 60, 62, 64 and 65, as also described on page 7, lines 9-18, fulfill essentially two tasks:

1. Through the specified spacing or distance of the respective smoke composition charge 44 from the associated ignition tube 50, there is afforded a completely dependable or reliable safe ignition of the smoke charge 44.
2. By means of the damping device, there is afforded an installation of the smoke segments 56 in the smoke pot 26 without any play being encountered.

The foregoing structural and functional advantages pursuant to the present invention can in no manner be ascertained from Prochnow, et al., nor are they disclosed or suggested in the secondary references, which were also cited in connection with the European patent application.

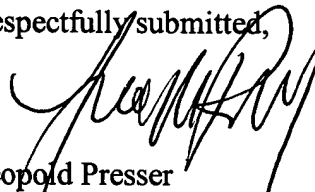
In view of the foregoing comments and submission of the prior art, applicants respectfully submit that the present allowed claims and application are directed at clearly patentable subject matter, and it is requested that the prior art being submitted herewith be considered and made of record in the present application.

Finally, in connection with the foregoing, applicants certify that the prior art, as submitted herewith, was cited in an Office Action in a corresponding foreign application (the co-pending European patent application) within three (3) months of the submission herein, in effect, was cited on the 8<sup>th</sup> of July 2004, and consideration of the art on that basis is earnestly solicited.

Furthermore, pursuant to the requirements, applicants also submit the requisite fee in the amount of \$180.00, in connection with which a duplicate of the present Information Disclosure Statement is enclosed herewith.

The prompt and favorable consideration of the foregoing prior art publications is earnestly solicited.

Respectfully submitted,



Leopold Presser  
Registration No. 19,827  
Attorney for Applicants

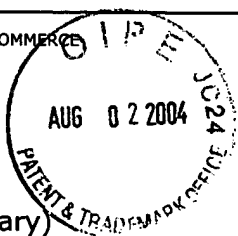
SCULLY, SCOTT, MURPHY & PRESSER  
400 Garden City Plaza  
Garden City, New York 11530  
(516) 742-4343

LP:jy

Enclosures: Form PTO 1449  
Publications  
Check for \$180.00

# **LIST OF REFERENCES CITED BY APPLICANT**

(Use several sheets if necessary)



**Atty. Docket No.**  
17052

**Serial No.**  
10/692,899

**Applicant**  
Werner Scherer, et al.

**Filing Date**  
October 24, 2003

**Group**  
3641

## **U.S. PATENT DOCUMENTS**

EXAMINER INITIAL*		DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLAS S	FILING DATE (if appropriate)
	AA	5,454,324	10/3/95	Larmignat, et al.			
	AB	4,583,461	4/22/86	Weber			
	AC	4,002,121	1/11/77	Prochnow, et al.			
	AD						
	AE						
	AF						
	AG						
	AH						
	AI						

		Foreign Document Number	Date	Country	CLASS	SUBCLAS S	TRANSLATION	
							YES	NO
		DE 100 39 988 A1	16.8.00	Germany				X
		DE 38 41 649 A1	10.12.88	Germany				X
		DE 33 39 039 A1	27.10.83	Germany				X

## **OTHER PRIOR ART (Including Author, Title, Date, Pertinent Pages, Etc.)**


**EXAMINER**

**DATE CONSIDERED**

\* EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.